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NOV 21 1991

Federal Communications Commission
Office of the Secretary

FRITZ E. ATTAWAY
SENIOR VICE PRESIDENT
GOVERNMENT RELATIONS

November 21, 1991

BY HAND

Donna R. Searcy
Secretary
Office of Managing Director
Federal Communications Commission
1919 M Street, NW
Room 222
Washington, DC 20554

RE: FCC MM Docket No. 91-221
In The Matter Of
Review of the Policy Implications of
the Changing Video Marketplace

Dear Ms. Searcy:

Please find attached an original and five copies of "Comments of the Motion Picture Association of America" filed today in the above referenced proceeding.

If you have any questions please contact the undersigned.

Sincerely,

F. E. Attaway

FEA/mk
Attachment

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Federal Communications Commission
Office of the Secretary

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Review of the Policy Implications of the Changing Video Marketplace	)	MM Docket No. 91-221
	)	

TO: The Commission

COMMENTS OF THE MOTION PICTURE ASSOCIATION OF AMERICA, INC.

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DATED: November 21, 1991

EXECUTIVE SUMMARY

MPAA believes that the gloomy scenario for the future of U.S. commercial television broadcasting painted by the Commission's Office of Plans and Policy (OPP) in its report "Broadcast Television in a Multichannel Marketplace" is largely without foundation. Independent analysts project that broadcast TV will continue to thrive despite the emergence of many new video media outlets.

OPP's study does not provide a sound basis for the changes the Office advocates in the Commission's duopoly, network-cable cross-ownership, broadcast-cable cross-ownership, dual network, or multiple ownership rules. MPAA believes that all of these OPP-recommended changes are unnecessary, at best premature, and counterproductive to the paramount federal policy goal of maximizing diversity and competition in the electronic mass media.

However, MPAA does support OPP's recommendation that the compulsory license be revisited in the interest of promoting competition and establishing a more marketplace-oriented mechanism for the licensing of broadcast, retransmission, exclusivity and other rights in television programming. In lieu of outright abolition of the compulsory license and the institution of retransmission consent by statute, MPAA recommends, and seeks the Commission's support for (i) establishing, on a transitional basis, the liability of cable operators for statutory royalty fees for the retransmission of copyrighted works contained in local broadcast signals, followed by (ii) the abolition, after a period of time to be determined by the Congress, of compulsory licensing.

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TO: The Commission

COMMENTS OF THE MOTION PICTURE ASSOCIATION OF AMERICA, INC.

The Motion Picture Association of America, Inc. ("MPAA") hereby respectfully submits its comments[1] in response to the Notice of Inquiry ("NOI") issued by the Commission in the above-referenced proceeding on August 7, 1991.[2]

MPAA's member companies include the leading television program producers, distributors and syndicators in the United States. MPAA shares with the Commission and the viewing public an interest in a healthy, competitive electronic media marketplace, one that is neither skewed by inappropriate regulatory barriers to entry and innovation nor left to purely Darwinian selection in which diverse

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1 20th Century-Fox Film Corp. is filing separately in this proceeding and subscribes only to the views expressed in section II.a. of these comments.

2 56 Fed. Reg. 40847 (Aug. 16, 1991).

voices cannot survive.

The Commission initiated the instant Inquiry out of concern that its regulatory regime for broadcast television may not be keeping pace with changes in the video marketplace. The Commission asks specifically for comment on the findings of its Office of Plans and Policy in its paper, Broadcast Television in a Multichannel Marketplace,[3] which examines the impact of new video delivery systems and changing video technology on the broadcast television industry.

In that paper, OPP reviews the competitive state of the video marketplace, advances in technology, and the effect of FCC rules on the future of commercial TV broadcasting, and recommends that the Commission (or, where appropriate, the Congress) make a series of changes in current policies and regulations, including:

1. abolishing the "dual network" rule;
2. eliminating the "network/cable cross-ownership rule";
3. easing the "broadcast/cable cross-ownership rule";
4. easing the "duopoly" rule, and eliminate it as to unaffiliated UHF stations;
5. eliminating the "multiple ownership" rule ("Rule of 12");
6. eliminating the "cable compulsory license"; and
7. imposing "retransmission consent" by law, in order to

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[3] 6 FCC Rcd 3996 (1991) (hereinafter "OPP Paper").

require a cable operator to obtain the permission of a broadcaster, and perhaps pay consideration, for the right to retransmit the broadcaster's signal.

With the possible exception of the recommended elimination of the compulsory license, MPAA believes that all of the cited recommendations by OPP are unnecessary, at best premature, and counterproductive to the paramount federal policy goal of maximizing diversity and competition in the electronic mass media.

MPAA here presents an alternative view to that of OPP of the prospects for commercial television broadcasting in the United States. MPAA also presents its arguments in support of retaining the structural regulations which OPP recommends eliminating or modifying, and in support of revisiting the compulsory copyright license.

I. <u>Broadcast Television Will Survive and Thrive Despite the Emergence of New Video Outlets; The Growth in Video Alternatives Does Not Warrant Radical Regulatory Change</u>

Today's American consumer has access to more outlets for video programming than at any time in history. There is no indication that the total number of outlets will soon stop increasing or diminish. Demand for programming continues to grow, as consumers and advertisers collectively pour more and more funds into the video medium, and get more and more in return.

Commercial broadcast television, a medium now some fifty years old, continues to operate effectively despite the growth of basic, pay and premium channels on cable television, wireless cable and home satellite dishes, videocassette recorders and videodisc players, and other video outlets.

Even in the midst of the current economic slowdown, television broadcasting appears to be holding its own, in contrast to other advertiser-supported media such as magazines and newspapers.[4] There are today more commercial broadcast television stations than ever before[5]. In the main, despite a dramatic slowdown in acquisitions throughout the electronic media marketplace, commercial broadcast TV stations continue to fetch attractive prices in the resale marketplace.[6] To the extent that certain

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4 While these print media, of course, also generate direct revenues from consumers, advertising is generally the predominant part of their revenue base.

5 By the Commission's count, there were 753 VHF and UHF commercial TV stations in the U.S. in Dec. 1980; that number had grown by more than 50 percent, to 1131 VHF/UHF commercial stations, by Oct. 1991. "Broadcast Station Totals," Mass Media Bureau, Federal Communications Commission.

6 By way of example, CBS recently purchased WCCO-TV-AM and WTLE (FM) (Minneapolis) and WFRV-TV (Green Bay, Wisconsin) from Midwest Communications for $200 million. Communications Daily, July 24, 1991, at 10. In another recent deal, Hughes Broadcasting Partners acquired two TV

broadcasters have found themselves in difficult financial straits, this tends to be a function of the financial overextension that characterized not only television but also publishing, real estate, and many other businesses during the heady Eighties. In a period when many businesses are retrenching, TV broadcasters are doing so, too, adjusting their costs in order to improve their returns.

Broadcast television also continues to enjoy distinct advantages over its competitors. The nearly 700 stations affiliated with one of the three major television networks have access to the most powerful programming sources in the world. All broadcast stations enjoy ubiquitous reach in their communities -- no cable or special equipment is required to receive their signals, only a standard TV set. A great many broadcast stations have built up decades of goodwill so that their call letters and station numbers are almost universally known in the local community.

At the same time, it must be noted that the universe of

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stations and two radio stations in the Midwest for an estimated $70 million, or about eight times cash flow. Electronic Media, November 11, 1991, at 3. While these prices do not compare with the huge premiums paid by many purchasers in the past decade, the reduction in purchase prices for TV stations has not been substantially more dramatic than for cable television systems, which often fetched upwards of $2500 or more per subscriber in the late '80s, but which very recently have traded at $1300-1800 per subscriber in a very soft acquisition market. In short, as an investment, TV broadcasting is holding its own against other media.

potential viewers continues to grow, so that while U.S. TV households totalled 79.9 million in 1980, that number had surged to 92.1 million by 1990.[7] Thus, even with stagnant or marginally declining audience shares, broadcast stations continue to reach by far the largest audiences among all video media.

Expert outside analysis suggests that the gloomy scenario painted by OPP may not be fully informed. The Commission's record in this proceeding would benefit greatly from the data and projections compiled by Veronis, Suhler & Associates, Inc. (VS&A), an investment banking firm dedicated to the communications industry. VS&A's annual "Communications Industry Forecast" is among the most awaited and most widely reported industry summaries and projections.

VS&A projects that the "compound annual growth rate" for advertising sales by television broadcasters between 1991 and 1995 will be 6.0%, as compared with a growth rate of 5.2% over the preceding five years; this is particularly impressive in view of the lackluster 1.9% growth in TV advertising in 1991.[8]

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7 Veronis, Suhler & Associates, "Communications Industry Forecast" (June 1991), at 62 (hereinafter "VS&A").

8 All VS&A data that follow are derived from charts, tables and texts in VS&A, Chapter 5, "Television Broadcasting," except where noted.

As to network television, VS&A estimates that gross expenditures for advertising on the major television networks totalled $8.0 billion in 1985, increased to $9.8 billion in 1990, and will leap to $13.5 billion in 1995; the compound annual growth rate for network advertising from 1991-1995 is 6.5%, as compared with a 4.1% rate over the preceding five years.[9] Although "network-affiliated stations were the only outlet to suffer a decline [in viewing time]... the average person in 1990 spent more than twice as much time viewing these stations than independent stations, three times the number of hours posted for basic cable programs, and more than eight times pay-cable's total," VS&A finds.[10]

> In fact, although their prime-time share fell 25 percentage points between 1980 and 1990, the total number of households reached by the networks fell only 8.2 million, cushioned by

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[9] While network ad revenues continue to rise, the networks claim that their profitability is deteriorating. In point of fact, while network profitability is down considerably from its astronomical levels in the Eighties, that can be said of many media enterprises, broadcast and non-broadcast. Moreover, Wertheim-Schroeder broadcast analyst David Londoner recently projected that ABC would earn $130 million in 1991, and NBC $150 million, while CBS, but for a massive write-down for sports rights from a series of ill-advised deals, would otherwise have been in profit, and the three networks would have then exceeded their combined profitability for 1990. Broadcasting, Oct. 21, 1991, at 23-4. Moreover, CBS TV network "profits were up [in 3rd quarter 1991] because of reduced costs..., a corporate downsizing... [and lower news costs than last year]. Broadcasting, Nov. 4, 1991, at 27.

[10] VS&A at 14.

growth in total TV households.[11]

Moreover, VS&A projects that network prime time audience share will "bottom out... at 61 percent, and viewership of the three networks will stabilize at close to 30 million households by the mid-1990s, halting the decline of the previous decade."[12] This is generally consistent with projections made by the networks' own audience research analysts.[13]

As to local television, "the share of television advertising dollars attributed to broadcast television has declined far less precipitously than the drop in broadcasting's share of television viewing, and the share of broadcast advertising going to television stations has hardly declined at all. <u>Broadcasting's share of television advertising, including network advertising and barter</u>

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11 VS&A at 63.

12 Id.

13 In the main, network analysts have projected that combined three-network prime-time shares would level off at about 60-61% by the middle of the decade, although some have recently adopted a bleaker view for purposes of advocacy before this Commission. But ratings so far this season look promising: "Although there have been no break-out hits this season, three-network share is at 65%, equal to what it was a year ago. <u>It's the first time in several years that the networks have maintained the previous season's audience level at this point of the season</u>." "Cable Passes ABC In TV Ratings Race," <u>AdWeek</u>, Nov. 4, 1991, at 3 (emphasis added).

syndication, decreased only 2.8 points to 93.7 percent in 1990, from 96.5 percent in 1985... The disparity between viewing share and broadcasting's advertising share illustrates broadcasting's advantage with respect to cable in attracting advertising."[14] These figures also indicate that despite the very large percentage increases in cable advertising revenues from year to year, cable's share of overall television advertising revenues is growing very slowly. Furthermore, "it will be difficult for cable to sustain such growth rates [in viewership and advertising] over the next five years" as cable homes passed grows modestly from the current 86.3 percent to 88.6 percent by 1995 and the number of new cable networks signing on drops off dramatically.[15]

To summarize, in five years' time, VS&A projects, "television stations will still dominate television viewing... accounting for 70.7 percent of total television viewing in 1995... Moreover, broadcasting will continue to garner more than 90 percent of total television advertising... The 1.8-point drop in advertising share [projected by 1995] represents only a quarter of broadcasting's 6.6-point [projected] decline in viewing share of advertiser-supported television, echoing the relationship between broadcasting's viewing share and advertising-share decreases in the

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[14] VS&A at 68.

[15] VS&A at 64.

1985-90 period."[16]

VS&A's projections for television broadcasting strongly suggest that -- to paraphrase Mark Twain -- reports of broadcasting's death are greatly exaggerated. In general, VS&A's projections stand in stark contrast to the gloom-and-doom scenario that pervades the OPP analysis. Because of VS&A's narrow and specialized focus on the communications industry, its considerable analytical resources, and its formidable track record, VS&A's projections deserve great weight in the Commission's determinations.

Thus, there is reason to doubt that changes in the video marketplace suggest a need for dramatic changes in structural regulation that would accelerate concentration in media ownership, leading to a constriction of diversity and possibly in large measure dousing the competitive spark currently existing between broadcasting and cable television.

Rather than wholesale revision of an effective regulatory scheme that does not appear to impose costs disproportionate to its public benefits, the Commission and other branches of the Federal government should ensure that broadcasters have the fullest opportunity to exploit new technological developments that will

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[16] VS&A at 71.

keep the medium fully competitive in the future. The Commission should proceed with deliberate speed to establish standards for high-definition television and for subsequent generations of improved television signals. The Commission should facilitate the introduction of digital signal compression technologies and should revise policies that might restrict local broadcasters from developing multichannel capability through signal compression. The Commission should urge the timely elimination of certain bars to the free transfer of programming rights, most importantly the compulsory copyright license (Sections 111 and 119 of the 1976 Copyright Act), in order to permit broadcasters and programmers to obtain full value for their programming from those who would wish to retransmit it.

A hard look at the future of broadcast television and the level of competition it faces from other media does not compel fundamental alteration of the regulatory status quo as it affects diversity of ownership and control of broadcast television stations and other media in local and national markets. In the following section, MPAA reiterates what it believes to be a strong public policy rationale for the continuation of certain structural regulations, and offers its support for the single OPP-proposed change that it believes is warranted by the circumstances of the marketplace: prompt reconsideration of the compulsory copyright license.

II. PERSPECTIVES ON ISSUES RAISED BY OPP

a. Cable Compulsory License/Retransmission Consent

The compulsory copyright license permits cable system operators to retransmit copyrighted programming contained in broadcast signals without the permission of the copyright owner; it provides for federally established royalties to be paid to copyright owners by cable operators in compensation for such retransmissions.[17] Under the compulsory license, broadcasters may not grant or withhold "consent" for retransmission of their station signals. OPP recommends that the compulsory license be eliminated, that full copyright liability for retransmission of copyrighted programming be instituted, and that retransmission consent for local broadcast stations also be imposed by statute.

In the past, MPAA has supported abolition of the compulsory

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[17] Royalty payments by cable operators are based on the number of distant television signals carried, as defined in the Copyright Act. These royalty rates are based on a percentage of the operator's gross revenues for basic cable service, and are subject to readjustment by the Copyright Royalty Tribunal (CRT). For certain small cable systems, a flat annual fee gives the operator the right to carry any and all local and distant signals. The CRT distributes these royalties among copyright owners based on the carriage of their programming on distant signals only; carriage in local markets is not compensated through this royalty pool.

license.[18] MPAA has just recently asked Congress to conduct a speedy reappraisal of the compulsory license with a view as to how it might be modified or phased out, and reaffirmed its opposition to legislated retransmission consent.

The compulsory licensing issue has become more complicated in recent years. In 1988, Congress enacted a separate "statutory license" for home satellite dishes (HSDs) and direct broadcast satellites (DBS). The Satellite Home Viewer Act created a new Section 119, which provides for an initial statutory license fee for each retransmitted signal of 12 cents per subscriber per month; the law provides for these fees to be replaced by negotiated fees in 1993, and the entire section sunsets in 1995. However, a recent decision by the U.S. Court of Appeals for the 11th Circuit held that HSDs and DBS were eligible for the Section 111 ("cable") license before enactment of Section 119.[19] The HSD/DBS industry is now arguing that when the Section 119 license sunsets in 1995, HSD/DBS will remain eligible for the Section 111 compulsory license.

Meanwhile, the eligibility of MMDS (wireless cable) operators

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18 See, e.g., Comments of MPAA in Gen. Dkt. No. 87-25 (Aug. 6, 1987) and Reply Comments (Oct. 5, 1987).

19 National Broadcasting Co., Inc. v. Satellite Broadcast Networks, Inc., 1991 U.S. App. Lexis 20463 (Sept. 4, 1991).

for the Section 111 compulsory license remains under consideration by the Copyright Office. A preliminary determination by the Office that MMDS does not qualify for the license is currently under review by that agency.[20]

MPAA is deeply concerned about the proliferation of compulsory licensing. At the same time, we recognize that new technologies should compete on a level playing field. Therefore, prompt reexamination by Congress of compulsory licensing is required to determine which delivery systems, if any, should be eligible for such licensing, for what periods of time, and under what conditions. In keeping with the policy established in the Home Satellite Viewer Act of 1988, all compulsory licenses should be subject to a sunset on a date certain.

The role of syndicated exclusivity ("syndex") in this context must not be overlooked. The Commission recently restored syndex for cable.[21] Home satellite dishes, DBS and MMDS are not subject

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[20] Copyright Office Docket No. RM 86-7B, "Cable Compulsory License: Definition of Cable Systems," 56 Fed. Reg. 31,580 (July 11, 1991). The Copyright Office has taken comments and replies on its preliminary determination on MMDS, and has also received comments on its determination as to the ineligibility of HSD/DBS for the Section 111 license and the eligibility of certain SMATV operations for that license.

[21] Report and Order in Gen. Dkt. No. 87-24, 3 FCC Rcd 5299 (1988), aff'd in part and modified in part 4 FCC Rcd 2711 (1989), aff'd sub nom. United Video, Inc. v. FCC, 890 F.2d 1173 (D.C. Cir. 1989).

to syndex. This creates a competitive disparity between cable and these other delivery systems, and causes disparate and disadvantageous treatment of the interests of copyright owners. At the very least, the Commission should eliminate this disparity pending statutory action on the compulsory licenses themselves.

MPAA cannot support legislated retransmission consent, which would undermine the operation of the compulsory license, cloud provisions in existing license agreements between program suppliers and broadcasters, and give to the broadcaster (a mere licensee of a copyrighted program) greater rights in a program than the producer who owns it. However, MPAA has put forward a legislative alternative that can achieve the core objective of retransmission consent -- i.e., giving local broadcasters a "second revenue stream" -- while leading in the longer term to an improved, free-market mechanism for the licensing of retransmission rights.

Specifically, MPAA has proposed the following:

(1) <u>Amend Section 111 of the Copyright Act to require cable television systems to pay royalties for local broadcast signals</u>. Under the existing compulsory license, cable operators may retransmit <u>local</u> television signals without compensation to anyone. Cable operators should be made liable for statutory royalty payments to those who own the copyrights in programs appearing on

local TV signals, which may be local broadcasters, television networks, program producers or syndicators. Such a modification to the compulsory license will provide broadcasters with a "second revenue stream" -- in the form of compensation for programs they create, produce and own.

(2) After a transitional period, to be determined by the Congress, abolish the compulsory license. The Commission has stated, as has OPP, that moving to a free market in the transfer of retransmission rights will serve the public interest. We agree with this conclusion in principle. We look forward to working with the Congress toward a phase-out of the compulsory license which, once achieved, will permit cable operators, TV station licensees, TV networks, and program producers and syndicators to bargain freely for broadcast, retransmission, exclusivity and other rights without having to contend with artificial statutory or regulatory hurdles.

b. Dual Network Operation

The Commission's rules currently prohibit a single company from operating more than one national broadcast television network. In OPP's view, "The dual networking rules... may hinder the offering of multiple channels by a single broadcaster, and network dominance, which the rules were intended to curb, will scarcely be an issue in the future multiple-provider environment."[22]

MPAA respectfully disagrees that reconsideration of the dual network rule is timely.

The Commission has just completed a rigorous proceeding on the financial interest and syndication rule (FISR), in which it concluded that "the networks still hold a unique position in the video marketplace of the 1990's," including continued "benefit from historical structural advantages... which give them by far the greatest hold over the nationwide television audience and those who seek to reach it."[23] The Commission found that the networks continue their unparalleled strength in terms of total viewing and national television ad sales. Even while granting substantially increased flexibility to the networks in their program acquisition practices, the Commission stressed that regulations are still needed "to protect and promote the public interest in diversity and competition <u>in the current video marketplace</u>."[24]

For much the same reasons, MPAA supports <u>retention</u> of the

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22 OPP Paper at 171.

23 Report and Order in MM Docket No. 90-162, 56 Fed. Reg. 26,242 (June 6, 1991) at para. 38 (hereinafter "FISR Order").

24 Id. at para. 18.

dual-network rule for the foreseeable future. Broadcast networks continue to dominate the video marketplace. Placing in one or a handful of companies the ability to stand as a barrier between the program producer and the broadcast outlet (i.e., the local television station) reinforces all the risks that the Commission perceived in the context of FISR. Moreover, diversity in television programming is coming from the efforts of new players to create various program distribution mechanisms, including new broadcast networks, to meet the needs of a changing marketplace.

Only a very limited number of companies would be in a position to provide "dual networks" in the foreseeable future. There is no apparent public benefit in permitting such companies to lock up distribution channels that should remain available for new, independent program sources. No change in the dual network rule is warranted at this time.

c. Cross-Ownership of Broadcast Network and Cable Systems

The Commission's rules currently bar a national TV broadcast network from owning a cable television system, and vice versa. OPP recommends that the Commission eliminate the rule, arguing:

> Rules that prevent vertical integration of the major broadcast networks into program production and syndication, despite the fact that their competitors appear to find such integration valuable, also cause broadcasters to operate under a competitive handicap and should be reconsidered. In particular, the Commission should eliminate its broadcast

network-cable crossownership ban."[25]

MPAA has consistently opposed the modification or elimination of the network-cable cross-ownership ban. In comments filed in MM Docket No. 82-434 (1988), MPAA supported retaining the rule for several reasons, among them:

1. The three major television networks have maintained their "predominant position nationwide" in the video marketplace. Permitting network-cable cross ownership would tend to concentrate, not diversify, media ownership.

2. The Commission has failed to identify in any concrete fashion the public interest benefits that may flow from network-cable cross ownership, or weighed such benefits against the probable costs of repeal of the rule.

3. Permitting network entry will bring no new competition to the "franchise market," because the market does not exist.

MPAA continues to support retention of the rule for the reasons previously stated.[26] Network dominance in the American

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[25] OPP Paper at 171.

[26] Warner Bros. Inc. does not support the view expressed by MPAA on the network-cable cross-ownership issue. While Warner Bros. fully agrees with the facts and conclusions set forth herein regarding network power, it believes

television marketplace has at last been challenged by the growth of independent television stations and cable outlets. Permitting the networks to gain control of a significant competitor, with the possibility that they can then disadvantage their broadcast competitors in local markets <u>and</u> enhance their leverage against affiliates as well, raises serious public interest concerns.

There is simply no evidence that either networks or cable need co-ownership with the other in order to survive. Nor do any purported "efficiencies" that may flow from co-ownership outweigh the serious risks to diversity and competition that would follow.

The major TV networks can and do compete in the cable TV marketplace today as programmers. Both NBC and Capital Cities/ABC own or have substantial interests in a variety of cable program services[27] and all three networks are participating in a wide range of programming co-production ventures with cable.[28] It is not at

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that diversity would be better served in this instance by elimination of the cross-ownership ban.

27 For instance, NBC, in partnership with Cablevision, Inc., owns 50% of CNBC (available to about 2/3 of all U.S. cable subscribers), American Movie Classics, Bravo, and a number of regional sports networks; ABC owns 80 percent of ESPN (available to virtually all cable subscribers), and smaller stakes in Arts & Entertainment (A&E) (reaching about 5/6 of all U.S. cable subscribers) and Lifetime (reaching slightly more subscribers).

28 Current co-production deals include the ABC/Nickelodeon venture "Hi Honey, I'm Home," the CBS/USA Network partnership to produce "Silk Stalkings." "In new era,

all clear that broadcast networks are any more disadvantaged in producing programming for cable than any other company not vertically integrated with cable.[29]

The broadcast network-cable cross-ownership bar remains necessary and appropriate as a means of preserving diversity of media voices on a national basis.[30]

d. Cross-Ownership of Local Broadcast Station and Local Cable System

The Communications Act and the Commission's rules prohibit a TV broadcast station from being jointly owned with a cable TV

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broadcast, cable unite," Electronic Media, Aug. 12, 1991, at 1.

29 To the extent that vertical integration in cable may pose access problems for independent programmers, MPAA has previously asked the Commission and the Congress to consider appropriate mechanisms to guard against unfair discrimination.

30 Should the Commission be inclined to conduct further proceedings on the advisability of reviewing this rule, MPAA believes that, at an absolute minimum, any proposed relaxation should include reasonable ownership caps (stated in terms of the number of cable subscribers that can be reached by a company owning both a broadcast network and cable systems) and other appropriate safeguards to preserve competition on a national and local level.